



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Mikhail Fukshansky, M.D.

Respondent Name

Metropolitan Transit Authority

MFDR Tracking Number

M4-17-0814-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

November 28, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "DESIGNATED DR REFERRED TESTING INCORRECT REDUCTION/PARTIAL PAY"

Amount in Dispute: \$282.11

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "There is no documentation that an evaluation or consult was requested by the designated doctor. The designated doctor examination provides the components necessary for evaluation and management. As such, a separate charge for an evaluation exceeds the designated doctor referral."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 13, 2016	Evaluation & Management, new patient (99204)	\$265.21	\$0.00
May 13, 2016	Needle Electromyography (95886)	\$0.00	\$0.00
May 13, 2016	Nerve Conduction Studies, 13 or more studies (95913)	\$0.00	\$0.00
May 13, 2016	Electrodes (A4556)	\$16.90	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10 sets out the procedures for designated doctors.
3. 28 Texas Administrative Code §180.22 defines health care provider roles and responsibilities.
4. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.

5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 165 – Payment denied/reduced for absence of, or exceeded referral.
 - P14 – The Benefit for this Service is included in the payment/allowance for another service/procedure that has been performed on the same day.
 - Comments: 165 – An office visit exceeds the referral. The designated doctor referred the patient for EMG/NCV only.
 - Comments: P14 – Per Medicare HCPCS code A4556 is incidental to the physician service and is not separately payable.

Issues

1. What are the services in dispute?
2. Is Metropolitan Transit Authority Harris County's reason for denial of payment for procedure code 99204 supported?
3. Is Metropolitan Transit Authority Harris County's reason for denial of payment for procedure code A4556 supported?

Findings

1. Mikhail Fukshansky, M.D. included the following procedure codes on the Medical Fee Dispute Resolution Request (DWC060): 99204, 95886, 95913, and A4556. Dr. Fukshansky is seeking \$0.00 for procedure codes 95886 and 95913. Therefore, these codes will not be considered. Procedure codes 99204 and A4556 are the services considered in this dispute.
2. Metropolitan Transit Authority Harris County (MTA) denied disputed procedure code 99204 with claim adjustment reason code 165 – "Payment denied/reduced for absence of, or exceeded referral," with additional comments – "An office visit exceeds the referral. The designated doctor referred the patient for EMG/NCV only." 28 Texas Administrative Code §127.10 gives authority to the designated doctor to refer an injured employee for additional "testing or referral required."

28 Texas Administrative Code §180.22(d) defines a consulting doctor as "a doctor who examines an injured employee or the injured employee's medical record in response to a request from the treating doctor, the designated doctor, or the division." A consulting doctor is directed to "(1) perform unbiased evaluations of the injured employee as **directed by the requestor** [emphasis added]..." Therefore, the authority of the examining doctor is restricted to the terms of the referral by the requestor, in this case, the designated doctor.

Review of the submitted documentation finds that Dr. Fukshansky stated that the examinee "was referred for Electromyography Testing (EMG/NCV)." Available documentation does not support that the referral included an evaluation in addition to the electromyography testing. MTA's denial reason is supported for this procedure code. Reimbursement cannot be recommended for this service.

3. MTA denied disputed CPT Code A4556 with claim adjustment reason code P14 – "The Benefit for this Service is included in the payment/allowance for another service/procedure that has been performed on the same day," with additional comments – "Per Medicare HCPCS code A4556 is incidental to the physician service and is not separately payable." 28 Texas Administrative Code §134.203(b)(1) states, in pertinent part,

for coding, billing reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the following:

- (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; ... and other payment policies in effect on the date a service is provided..."

Medicare policy finds that CPT Code A4556 is a Bundled/Excluded code, which means,

There are no RVUs and no payment amounts for these services. No separate payment should be made for them under the fee schedule.--If the item or service is covered as incident to a physician service and is provided on the same day as a physician service, payment for it is bundled into the payment for the physician service to which it is incident. (An example is an elastic bandage furnished by a physician

incident to physician service.)--If the item or service is covered as other than incident to a physician service, it is excluded from the fee schedule (i.e., colostomy supplies) and should be paid under the other payment provision of the Act.

The Medicare Benefit Policy Manual, Chapter 15 §60.1 states, "Incident to a physician's professional services means that the services or supplies are furnished as an integral, although incidental, part of the physician's personal professional services in the course of diagnosis or treatment of an injury or illness." The electrodes are incident to the physician services furnished the same day, therefore, they are bundled in those services. MTA's denial reason is supported. Reimbursement cannot be recommended for this code.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

_____	<u>Laurie Garnes</u>	<u>December 22, 2016</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.